Country and Sector Background

1. **Resource endowments.** With an average renewable supply of freshwater resources of less than 650m$^3$ per capita per year, Kenya stands within the bottom 8% of countries in terms of water scarcity. It has wide variation in rainfall both geographically and temporally, with over 80% of its physical areas consisting of arid or semi-arid lands (ASALs). The water resources picture makes it crucial for efficient allocation, utilization and management of the available water resources, including in the drinking water supply sub-sector. However, the history of water resources management in Kenya is characterized by many years of inadequate management of resources and ineffective infrastructure investments.

2. **Water supply and sewerage (WSS) services.** Kenya made large investments in production and treatment capacities during the 1980’s and 1990’s. But inadequate management and maintenance, coupled with a lack of commensurate expansion in distribution networks, these investments did not result in efficient and sustainable service distribution. Consequently, by the start of the new millennium there was widespread collapse of infrastructure due to under-
investment in operations and maintenance. WSS operations were not transparent, unsustainable and ill suited to respond to consumer needs. The delivery of WSS services were fragmented in an incoherent way into the responsibilities of different agencies and organizations. As a result, there was lack of coordination on the one hand and overlap of mandates on the other resulting in a confused sector situation with lack of accountability.

3. **Adverse impact on the poor.** The inability of WSS utilities to delivery service impacted informal settlements in a disproportionate way. This resulted in the majority of households in informal settlements rely on alternative water supply sources (mainly kiosks and private vendors) bought at a much higher cost compared to piped water. Especially in urban and semi-urban areas, informal settlements are where the majority of the low income households people. Owing partly to migration to the cities and towns, informal settlements makes up a significant proportion of the city and town population (e.g., the 1999 official national survey found 30% of Nairobi’s 2.1 million people live in informal settlements).

4. **Government sector targets.** The Government of Kenya’s (GOK) National Water Policy (1999) envisages 100% access to safe water for the country’s population by 2010. The MDG envisages access to safe water and improved sanitation of 70% and 93% respectively by 2015. Current coverage figures are 50% and 86% respectively. The GOK realized that the achievement of the sectoral targets would not be possible without a comprehensive sector reform.

5. **Government policy response.** The GOK recognized the need for comprehensive institutional reform and investments in the sector in order to remove the bottlenecks to achieving its sectoral targets and contribute to its poverty reduction objectives. To address the deteriorated situation and the previously fragmented water supply and sanitation (WSS) delivery responsibilities, GOK commenced a comprehensive sector reform in early 2003. The main sector reform vehicle is the Water Act (2002), aimed at harmonizing the management of water resources and WSS.

6. **Water Act (2002).** Starting in 2003, the GOK, spearheaded by the Ministry of Water and Irrigation (MWI) commenced the implementation of the Water Act (2002). The Water Act (2002) as a sector reform tool represents one of the most far reaching and comprehensive sector reform envisaged and undertaken by any country. The Act called for a complete change of the sector landscape to create a comprehensively new institutional setup, aimed at harmonizing and streamlining the management of water resources and water supply and sewerage services. A central tenet of the new service delivery framework is the separation of functions between each aspect of service delivery - policy making, regulation, asset ownership / control and service delivery operations. The consequent formalization of relationships between these functions is expected to reduce conflicts of interest and increase transparency and accountability.

7. **Governance in the Sector.** The government has instituted a number of measures and initiatives to combat and halt corruption. In the WSS sector, the GOK has grounded a new service delivery framework within a comprehensive legislative framework [Water Act (2002)], providing for a new institutional setup that is an improvement over the old system in that institutional responsibility and accountability have been made clear, with service delivery
institutions subject to specific contracts and transparent audits. There has been significant effort leading to specific improvements in governance and anti-corruption issues – within the sector wide context as well as within the strengthening efforts of specific sector institutions including those supported by the Bank’s Nairobi Water and Sewerage Institutional Restructuring Project (NWSIRP). The GOK’s demonstrated commitment to the sector reform provides further reassurance that the governance improvement gained thus far will be improved upon and sustained over the longer term.

8. **Government commitment and roadmap.** The GOK has demonstrated continuing commitment to the implementation of the Water Act (2002). The GOK (i) is reorganizing the Ministry of Water and Irrigation (MWI) into a body focused on policy issues, (ii) has established and operationalized a new sector oversight institutions i.e., Water Services Regulatory Board (WSRB), a Water Services Trust Fund (WSTF) and a Water Appeals Board (WAB), and (iii) has established and operationalized seven Water Services Boards (WSBs). Each WSB is mandated to appoint Water Services Providers (WSPs), which are legal entities contracted by WSBs to be responsible for service delivery operations. The GOK has developed roadmaps for sector transformation which includes the publications of a ‘Transfer Plan’ detailing a series of transitions culminating in the completion of the transfer of the management and operations of water services to the WSBs. Despite some setbacks and delays emanating from the challenges posed by the massive reform effort, the implementation of this plan is generally proceeding satisfactorily. Roll-back of reform has been made unlikely by the degree of operationalization of the new sector institutions and their demonstrated assumption of new sector responsibilities. Increased development partner coordination and partnership with the GOK have provided a strong common platform for sector level issues to be discussed and addressed. Additionally, the GOK has commenced a process to implement a sector-wide approach to planning (SWAP) with strong development partner support. A draft National Water Services Strategy is currently going through public consultation prior to finalization.

**Project Objectives**

9. The development objectives of the project are to: (a) increase access to reliable, affordable and sustainable water supply and sanitation services; and (b) to improve the water and wastewater services in the areas served by AWSB, LVNWSB and CWSB. This will be achieved by (i) rehabilitating selected existing water production, transmission, storage and distribution facilities and wastewater collection, treatment and disposal facilities, (ii) expanding piped water supply services to under-served areas through the extension of primary and secondary distribution pipes where required (this would include service expansion into urban slums / informal settlements through a balanced program including the involvement of communities in decision making), and (iii) refining and strengthening the institutional structure, emphasizing on increasing accountability and transparency of the institutional and governance and management framework.

**Rationale for Bank Involvement**

10. **Bank’s long term commitment to support WSS in Kenya.** The Bank has a long history of supporting WSS infrastructure development in Kenya and has maintained continuous
and active dialogue with the GOK throughout the period of formulation of the new policies and legislations. The supported the GOK upon the commencement of sector reform. Learning from past experience, the Bank and the GOK took a phased support approach focusing first on the creation of an institutional framework into which sustainable infrastructure investments (ultimately required for significant service improvement and expansion) could be made at a later date. The first phase support, in the form of the Nairobi Water and Sewerage Institutional Restructuring Project (NWSIRP), focused on putting in place a transparent and sustainable service delivery framework in Nairobi. A similar framework could now be expanded into other areas.

11. **Maintaining the momentum of progress through phased support.** Under NWSIRP, institutional restructuring has led to a sustainable institutional and management framework and improvements in service delivery in Nairobi. This is acknowledged in the CAS Progress Report where WSS is cited as one of the sectors where the Bank intervention has shown positive impact and where sector structural reforms is moving forward. However, significant infrastructure investments are needed throughout Kenya to expand coverage and access to safe water and sanitation services and achieve comprehensive and sustained improvement in the quality of service delivery. Given the achievements of the first phase NWSIRP support, the Bank is now uniquely positioned to assist the GOK to (i) scale up similar institutional strengthening support to other areas, and based on the demonstrated sustainable institutional framework (ii) commence significant and sustainable physical infrastructure investments in the sector towards significant service improvement and expansion of service coverage. WaSSIP would expand the support for the demonstrated sustainable institutional and management frameworks from Nairobi (Nairobi district’s population is about 2.9 million) to the full jurisdiction of AWSB, CWSB and LVNWSB (roughly 16 million or about half of Kenya’s population). Direct project infrastructure investment will commence in selected service provision areas within AWSB, CWSB and LVNWSB where about 7.3 million people reside.

12. **Enhancing development partner coordination and cooperation.** Information sharing, coordination and cooperation have increased significantly since 2002 through an increasingly active development partner sector working group (i.e., the Water and Sanitation Technology Group - WSTG) in which the Bank actively participates. Regular GOK / development partners WSS forums commenced in 2006. The Bank has the comparative advantage in urban WSS and its leadership is most appropriate for supporting Water Services Boards with significant urban WSS in particular ASWB and CWSB. The implementation of NWSIRP had also provided the means to coordinate and cooperate with other development partners. Notably, the Bank has pursued a strategy of conducting discussions and joint missions with KfW/GTZ/DED and AFD who are or plan to support AWSB, CWSB and LVNWSB. This has now led to the Bank being in a position to help convene a coordinated parallel financed WSS project supporting these three Water Services Boards further enhancing harmonization and synergy of development partner efforts. The Bank continues to dialogue with other development partners (e.g., JBIC, JICA, AfDB and EIB). The second phase project could serve as a catalyst for further development partner cooperation and coordination.

**Project Description**
13. The project will support the sector reform and the associated sector institutional setup through water, wastewater and sanitation, and institutional strengthening activities. The water, wastewater and sanitation activities will focus on improving and expanding reliable, sustainable and affordable safe water supply and wastewater services to consumers. At the same time, the rehabilitation of deteriorated wastewater treatment and construction of facilities would result in overall environmental benefits. Institutional strengthening activities will focus on strengthening the service delivery framework, governance and transparency, and monitoring and evaluation. The project’s implementation will be carried out by the permanent sector institutions, using as much as possible sector reporting and monitoring tools. As such its components will be designed to align with sector implementation, reporting and accountability structures i.e., the project would be delineated in the first instance along the lines of autonomous sector institutions.

14. **Project Components.** The project would have three major components: (1) support to the Athi Water Services Board (including technical assistance support to the Water Sector Regulatory Board and the Water Appeals Board), (2) support to the Coast Water Services Board, and (3) Support to the Lake Victoria North Water Services Board.

15. **Component 1.** Support to the Athi Water Services Board (including technical assistance support to the Water Sector Regulatory Board and the Water Appeals Board) – approx. US$53.5m. This will include:

   (a) the rehabilitation of existing water supply systems including transmission pipelines, water treatment works, storage, water distribution networks, boreholes; construction of water treatment works in selected small towns, and extension of water distribution networks and metering, including expansion to informal settlements,

   (b) the rehabilitation of sewerage networks and sewage treatment facilities, and extension of existing networks,

   (c) supporting selected equipment and activities aimed at strengthening the commercial, financial and technical operations at AWSB and water services providers, technical assistance for M&E, engineering, financial, legal, assets valuation, audits, informal settlements WSS program, communications, environmental and safeguards, and independent assessments of the institutional framework; programs to increase oversight and transparency of service delivery; and training and capacity building,

   (d) supporting the operationalization and strengthening of the Water Sector Regulatory Board (WSRB) and the Water Appeals Board (WAB).

16. **Component 2.** Support to the Coast Water Services Board – approx. US$42.5m. This will include:

   (a) the rehabilitation of existing water supply systems including transmission pipelines, water treatment works, storage, water distribution networks, boreholes; construction of water treatment works in selected small towns, and extension of water distribution networks and metering, including expansion to informal settlements,
(b) the rehabilitation of sewerage networks and sewage treatment facilities, and extension of existing networks,

(c) supporting selected equipment and activities aimed at strengthening the commercial, financial and technical operations at CWSB and water services providers, technical assistance for M&E, engineering, financial, legal, assets valuation, audits, informal settlements WSS program, communications, environmental and safeguards, and independent assessments of the institutional framework; programs to increase oversight and transparency of service delivery; and training and capacity building.

17. **Component 3.** Support to the Lake Victoria North Water Services Board. – approx. US$33m. This will include:

   (a) the rehabilitation of existing water supply systems including transmission pipelines, water treatment works, storage, water distribution networks, boreholes; construction of water treatment works in selected small towns, and extension of water distribution networks and metering, including expansion to informal settlements,

   (b) the rehabilitation of sewerage networks and sewage treatment facilities, and extension of existing networks, the construction of sewerage systems in selected small towns (of less than 2,500m3/d each); on-plot sanitation; and hygiene campaigns,

   (c) supporting selected equipment and activities aimed at strengthening the commercial, financial and technical operations at LVNWSB and water services providers, technical assistance for M&E, engineering, financial, legal, assets valuation, audits, informal settlements WSS program, communications, environmental and safeguards, and independent assessments of the institutional framework; programs to increase oversight and transparency of service delivery; and training and capacity building.

**Financing**

18. The project financing is expected to be as follows:

<table>
<thead>
<tr>
<th>Source:</th>
<th>($)m.</th>
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</thead>
<tbody>
<tr>
<td>Borrower/Recipient</td>
<td>9.31</td>
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<tr>
<td>International Development Association (IDA)</td>
<td>120.00</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>129.31</strong></td>
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</table>

19. In addition, the Bank is working with KfW Bankengruppe (KfW) and Agence française de développement (AFD) in a parallel manner, coordinating the agencies’ respective projects and programs to support AWSB, CWSB and LVNWSB through a parallel financing arrangement. KfW has an ongoing program to support LVNWSB. AFD has an ongoing project to support AWSB and is preparing a project to support CWSB in Mombasa city.

**Implementation**
20. **Project Implementation by Sector Institutions.** The project will be implemented principally through the appropriate existing sector institutions in line with sector service delivery framework and respecting the autonomy and mandates of the institutions – no special purpose project implementation unit or agency will be utilized. Institutional strengthening of sector institutions would form one objective of the project and support to this end provided where necessary. The project will, as much as possible, utilize the sector reporting and monitoring mechanisms and principles with necessary oversight and safeguards to be agreed with the GOK, in particular in the areas of transparency, governance and risk management.

21. **Implementing Agencies.** There would be three implementing agencies i.e., AWSB, CWSB and LVNWSB. It is expected that the bulk of the project investments would support the investment program of the WSBs as developer/owner of the WSS assets. Water Services Providers (WSPs) may also receive limited technical assistance and small working capital support but these would be channeled through the respective WSBs. WSBs may also delegate the execution of some of their mandates their WSPs. As a practical measure, the small capacity strengthening support expected to be provided to the WSRB and WAB would be implemented through the AWSB. In all cases, the WSBs remain the principal accountability units for the project. While each implementing agency would implement their own portion of the project, AWSB, CWSB and LVNWSB will set up a project coordination team (PCT) that will periodically meet to exchange information, share experiences and technical expertise and carry out cooperative ‘self-help’ activities. This group will be set up prior to project implementation and will coordinate and cooperate in project implementation, project reporting and activities that are common to all three agencies, as well as serving as principal liaison with the Bank implementation team.

**Sustainability**

22. The following factors would promote and enhance sustainability:

- **Consistency with sector reform and legislations.** The project undertake to directly support the GOK’s sector reform agenda that will lead to a harmonized service delivery framework with service delivery institutions that are efficient and sustainable over the long term. The project is consistent with the sector reform which is underpinned by a comprehensive sector legislation - the Water Act (2002) and the associated sector reform plans i.e., the Transfer Plan, National Water Services Strategy (NWSS), GOK’s Sector Investment Plan – that provides for a long term institutional set up.

- **GOK commitment and development partner support.** The commitment shown by the GOK since 2003 in pursuing the sector reform objective provides the reassurance that the momentum gained and progress thus far of the reform process would not and cannot be easily turned back. Development partner support to the sector reform process, including the demonstrated partnership with the GOK in supporting the process towards a Sector-Wide Approach to Planning (SWAP) and the goodwill effort to implement the Partnership Principles further bolster the probability that the sector reform process would be successful and lead to a sustained improvement in service provision.
• **Improved governance.** Measures to promote good governance, including instituting good corporate governance in service delivery institutions, would promote sustainability. Sector institutions have clear mandates and responsibilities underpinned by legislations and/or contractual relationships. Adequate monitoring of sector institution performance, with adequate oversight and transparent information sharing mechanism, would promote efficiency and reduce the incidence of corruption. This would ensure that development resources provided are used efficiently for the intended purposes and that resources generated from service delivery are safeguarded and utilized to the benefit of the sector and consumers.

• **Reduced risk of non-sustainability through phased support.** This project follows from an earlier phase of support where a model for sustainable service provision (including financial sustainability) was developed. This strategy enhances the chances of success at every phase and reduces the risk of unsustainable investment.

**Lessons Learned from Past Operations in the Country/Sector**

23. The Project is consistent with lessons learned from past Bank WSS projects in Nairobi, Mombasa and in the region:

• **Major investments in the WSS sector are likely to be unsustainable without a strong institutional development to create an autonomous and dedicated service delivery framework where investments and revenue are protected for use in maintaining and improving the services.** This is a direct lesson from the Third Nairobi Water Supply and Sanitation Project (see project Implementation Completion Report, Cr. 2060-KE, Document No. 18708 dated December 17, 1998) which led to the overall unsatisfactory rating the project. The current phased approach to support the sector reform is a direct measure to incorporate this lesson. The institutional framework supported under the Nairobi Water and Sewerage Institutional Restructuring Project (NWSIRP) – FY04 – should provide the necessary model for infrastructure investments in the proposed project. However, the proposed project will focus initial support effort on institutional strengthening in Water Services Boards that have not yet benefited from institutional strengthening support (i.e., CWSB).

• **There should be an effective champion.** Leadership for sector reform has been earnestly taken on board by Ministry of Water and Irrigation (MWI), who is spearheading the implementation of the Water Act (2002).

• **Project should be compatible with and complementary to overall Government activities.** Ownership and commitment is obtained by directly supporting the GOK’s implementation of (i) the Water Act (2002), and (i) sector structural reforms outlined in the GOK’s Economic Recovery Strategy for Wealth and Employment Creation (ERSWEC). Project design and implementation would be completely aligned with sector implementation and accountability structures.
• Comprehensive sector planning and coordination provides outcomes in service delivery (e.g., Uganda, Ghana, Senegal). The investment plans of the WSBs supported by the project forms part of the GOK overall sector wide investment plans. The adherence to agreed Partnership Principles entered into by the GOK and development partner would help ensure that the project is continuously coordinated and harmonized with the overall GOK sector development program.

• WSS operational autonomy is critical for success. The institutional framework under the Water Act (2002) provides for autonomy of sector institutions and operations. The revenue of the Water Services Boards and water service providers would be legal entities formed under specific legal provisions (e.g., the Water Act, Companies Act, Societies Act, etc.), the relationships between them governed by transparent contracts and their operations ‘ring-fenced’.

• Strong social accountability mechanisms helps to improve institutional accountability, governance and transparency. The project would promote social accountability mechanisms and transparent system within and between stakeholders. The contracts between sector institutions i.e., the Service Provision Agreements between WSBs and WSPs will be audited technical and financially. The results of the audit would be made public. All project financial and physically information would be made public in accessible form. The project would partner with efforts of development partners and NGOs working with consumer groups and communities to encourage independent oversight of service provision.

• Comprehensive communications is critical for success. The project will include a significant communications program aimed at building wide stakeholder support and consensus for the water sector reform. Communications should include decision makers and political leaders and be continuous.

Safeguard Policies (including public consultation)

<table>
<thead>
<tr>
<th>Safeguard Policies Triggered by the Project</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Environmental Assessment (OP/BP 4.01)</strong></td>
<td>[X]</td>
<td>[ ]</td>
</tr>
<tr>
<td>This policy is triggered due to the focus on rehabilitation, construction and extension of water supply and sanitation systems. Since the exact locations of proposed activities have not been identified at this stage, the safeguard instrument used will be the Environmental and Social Management Framework (ESMF). An ESMF has been prepared to identify, assess and mitigate likely negative environmental and social impacts of the project. The ESMF will be disclosed prior to appraisal.</td>
<td>[X]</td>
<td>[ ]</td>
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<tr>
<td>Natural Habitats (OP/BP 4.04)</td>
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<td>[X]</td>
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<tr>
<td>Pest Management (OP 4.09)</td>
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<td>[X]</td>
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<tr>
<td>Physical Cultural Resources (OP/BP 4.11)</td>
<td>[ ]</td>
<td>[X]</td>
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<tr>
<td><strong>Involuntary Resettlement (OP/BP 4.12)</strong></td>
<td>[X]</td>
<td>[ ]</td>
</tr>
<tr>
<td>This policy is triggered because project activities such as rehabilitation, construction and extension of water supply and</td>
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<td>[ ]</td>
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sanitation facilities can result in temporary or permanent loss of land, crops, and other means of income generation. A Resettlement Policy Framework (RPF) has been prepared to handle such unforeseen circumstances. The RPF document will be disclosed prior to appraisal.

**Indigenous Peoples (OP/BP 4.10)**

Since indigenous and vulnerable groups are likely to be affected particularly in the area of Lake Victoria North Water Services Board (LVNWSB), an Indigenous Peoples Planning Framework (IPPF) is being prepared and will be disclosed prior to Appraisal.

**Forests (OP/BP 4.36)**  
**Safety of Dams (OP/BP 4.37)**  
**Projects in Disputed Areas (OP/BP 7.60)**  
**Projects on International Waterways (OP/BP 7.50)**

The preparation has identified project activities and impacts on international water agreements and international waterways and the White Nile riparian states have been notified.

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**List of Factual Technical Documents**

**A. Bank Staff Assessments**
- Project Preparation Back to Office Reports and Aide Memoires
- Financial Management Assessment
- Procurement Capacity Assessment
- Project Information Document (PID)
- Integrated Safeguards Data Sheet (ISDS)
- Financial and Economic Analysis Data

**B. Project Implementation Documents**
- Environmental and Social Management Framework (ESMF)
- Resettlement Policy Framework (RPF)
- Draft Indigenous Peoples Planning Framework (IPPF) (in preparation)
- Draft Communications Strategy (in preparation)

**C. Other documents/Studies carried out**
- Water Act (2002)
- Companies Act (1962)
- The Water (Plan of Transfer of Water Services) Rules, 2005 [the ‘Transfer Plan’]

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*By supporting the proposed project, the Bank does not intend to prejudice the final determination of the parties' claims on the disputed areas*
- Licenses granted by Water Services Regulatory Board to Athi, Coast and Lake Victoria North Water Services Boards

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